



United States  
Department of  
Agriculture

Office of the General Counsel  
1400 Independence Ave. SW  
Washington, DC 20250-1400

November 1, 2019

**Delivered via Electronic Mail**

Katherine Anthony  
American Oversight  
1030 15<sup>th</sup> Street NW, Suite B255  
Washington, DC 20005  
[foia@americanoversight.org](mailto:foia@americanoversight.org)

**RE: Freedom of Information Act (FOIA) Request 2019-OSEC-06599-F  
Final Response**

Dear Ms. Anthony:

This is the Departmental FOIA Office's (DFO) final response to the above-referenced FOIA request seeking the following:

1. Copies of any signed commission(s) appointing Brandon Lipps as an officer in any position—on an acting or permanent basis—at USDA, including any of its sub-agencies or offices.
2. Copies of any appointment affidavits signed by Brandon Lipps with respect to any position—whether acting or permanent—at USDA, including any of its sub-agencies or offices.

For items 1-2 of this request, please provide all responsive records from April 25, 2017, through the date a search is conducted.

3. Copies of any SF-50 forms for Brandon Lipps reflecting any change in position or title, including when he entered or left a position. We have no objection to the redaction of home addresses, telephone numbers, or social security numbers from the SF-50s.

For item 3 of this request, please provide all responsive records from July 20, 2017, through the date a search is conducted.

4. To the extent not otherwise responsive to items 1-4 of this request, any other records formally effectuating or memorializing Brandon Lipps' appointments to serve as (1) Deputy Undersecretary of Food, Nutrition & Consumer Services or (2) Administrator of the Food and Nutrition Service.

Your request has been processed under the FOIA, 5 U.S.C. § 552.

A search for responsive records was performed by USDA's Office of Human Resources Management (OHRM). The OHRM facilitates the attainment of the Department's strategic goals and program objectives by ensuring the recruitment and retention of a diverse, highly-

skilled workforce that is aligned with program needs as well as to promote a competency-based and results-oriented performance culture at USDA. Four (4) pages of responsive records were uncovered. However, one page (Request for Senior Executive Service Appointing Authority, dated July 17, 2019) is also responsive to American Oversight's FOIA request 2019-OSEC-06595-F and is being released with the final response related to that request. Thus, to avoid duplicate productions, three (3) pages of responsive records are being released here.

Following a review of the responsive records, the DFO has determined that certain information contained therein should be withheld pursuant to 5 U.S.C. §552(b)(6) (FOIA Exemption 6). Below is an explanation of the information that has been withheld.

### **FOIA Exemption 6**

Exemption 6 generally is referred to as the "personal privacy" exemption. It provides that the disclosure requirements of FOIA do not apply to "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Application of the exemption involves balancing the public's interest in disclosure against individuals' privacy interests. For purposes of the FOIA, the public interest is advanced when disclosure of the requested information educates the public about the activities of the government.

The information withheld under Exemption 6 consists of the following information relating to Brandon Lipps: social security number, date of birth, information relating to retirement plans, veteran's preference, and annuity. These items fall under the category of "similar files" because the information applies to a particular individual. This information is purely personal in nature and not pertinent to the employee's duties. Because there is a viable privacy interest in this information and no outweighing public interest to be advanced by disclosure, Exemption 6 authorizes the DFO to withhold these items from release.

You may appeal this response by email at [USDAFOIA@usda.gov](mailto:USDAFOIA@usda.gov), or by mail to Inga Bumbarly-Langston, Deputy General Counsel, Room 101-W, Jamie L. Whitten Federal Building, U.S. Department of Agriculture, 1400 Independence Avenue, S.W., Washington, D.C. 20250-0103. Your appeal must be in writing, and it must be received no later than 90 calendar days from the date of this letter. The OGC will not consider appeals received after the 90 calendar-day limit. Appeals received after 5:00 p.m. EST will be considered received the next business day. The appeal letter should include the FOIA tracking number listed above, a copy of the original request, the DFO's response to your original request, and a statement explaining the basis of your appeal. For quickest possible handling, the subject line of your email, the appeal letter, and its envelope, if applicable, should be marked "Freedom of Information Act Appeal."

You may seek dispute resolution services from the DFO's FOIA Public Liaison, Ms. Camille Aponte. Ms. Aponte may be contacted by telephone at 202-690-5260 or electronically at [Camille.Aponte@usda.gov](mailto:Camille.Aponte@usda.gov) or [USDAFOIA@usda.gov](mailto:USDAFOIA@usda.gov).

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about its FOIA mediation services.

**Katherine Anthony**

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The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; email at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll-free at 1-877-684-6448; or facsimile at 202-741-5769.

If you have any questions regarding this letter, please contact 202-694-5982 or [USDAFOIA@usda.gov](mailto:USDAFOIA@usda.gov).

Sincerely,

*Alexis Graves*

Alexis Graves  
Departmental FOIA Officer  
Office of the General Counsel

Enclosure: Responsive Records (3 pages)

# APPOINTMENT AFFIDAVITS

Administrator  
(Position to which Appointed)

7/19/2017  
(Date Appointed)

USDA  
(Department or Agency)

OSEC  
(Bureau or Division)

Washington, DC  
(Place of Employment)

I, Brandon Lipps, do solemnly swear (or affirm) that--

## A. OATH OF OFFICE

I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

## B. AFFIDAVIT AS TO STRIKING AGAINST THE FEDERAL GOVERNMENT

I am not participating in any strike against the Government of the United States or any agency thereof, and I will not so participate while an employee of the Government of the United States or any agency thereof.

## C. AFFIDAVIT AS TO THE PURCHASE AND SALE OF OFFICE

I have not, nor has anyone acting in my behalf, given, transferred, promised or paid any consideration for or in expectation or hope of receiving assistance in securing this appointment.

Bah Ly  
(Signature of Appointee)

Subscribed and sworn (or affirmed) before me this 19<sup>th</sup> day of July, 2017  
at Washington DC  
(City) (State)

(SEAL)

Dina Rector  
(Signature of Officer)

Commission expires \_\_\_\_\_  
(If by a Notary Public, the date of his/her Commission should be shown)

HR Assistant  
(Title)

Note - If the appointee objects to the form of the oath on religious grounds, certain modifications may be permitted pursuant to the Religious Freedom Restoration Act. Please contact your agency's legal counsel for advice.



# Request for Senior Executive Service Appointing Authority

Agency Name: DEPARTMENT OF AGRICULTURE

POC: CANDICE JONES

Phone: (202) 260-8128

Print Date: 06/13/2017

Fax: (202) 720-2774

Request No: DA170165 Request Type: APPOINTMENT

Appointment Authority: NONCAREER

Extension: No

Duration:

ES Pay Level: \$179,700

Temporary Allocation: No

Candidate: BRANDON LIPPS

Position No: DAES98021

Title: ADMINISTRATOR

Organization Name: OFFICE OF THE UNDER SECRETARY FOR FOOD, NUTRITION AND CONSUMER SERVICES

Recruited From: OUTSIDE FED. GOVT. (NOT

GEO Location: DISTRICT OF COLUMBIA

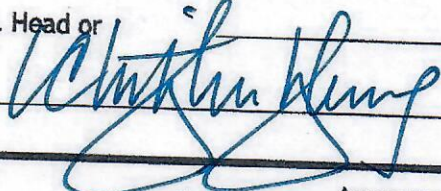
Current Title:

Proposed Title:

## SES Endorsement Statement

I endorse the above request made to the Office of Personnel Management. I certify that the position is a General position and certify that the candidate meets the professional/technical, executive and managerial qualifications for the position.

Agency/Dept. Head or

Signature: 

Date Signed: 6/13/17

## Agency White House Liaison

Name: Henry Turner Bridgforth

Phone: \_\_\_\_\_

Signature: 

Date Signed: 6/13/17


## OPM USE ONLY

Check the appropriate Box(es)

- ☐ Your request for a new noncareer appointment authority, reassignment or pay level change is:
- ☐ Your request for a limited term emergency appointment authority for the duration of \_\_\_\_\_ is:
- ☐ Your request for temporary space allocation
- ☒ Approved ☐ Approved with Modification \*
- ☐ Disapproved ☐ Return without Action
- \* Modification

Number of non-career allocations: \_\_\_\_\_

Percent of SES space allocation: \_\_\_\_\_ %

OPM Approving Official: 

Date Signed: 6/20/17

EMAIL: SERS@opm.gov

Source: Office of Personnel Management

ATTENTION: Senior Executive Resource Services

Report 1652, Version November 2008

USDA-19-1158-A-000002

NOTIFICATION OF PERSONNEL ACTION

2019-OSEC-06599-F

1. Name (Last, First, Middle) LIPPS, BRANDON RAY					2. Social Security Number (b) (6)		3. Date of Birth (b) (6)		4. Effective Date 08/18/19							
FIRST ACTION					SECOND ACTION											
5-A. Code 546		5-B. Nature of Action CONV TO SES NONCAREER APPT			6-A. Code		6-B. Nature of Action									
5-C. Code V4L		5-D. Legal Authority 5 USC 3394(A) NONCAR			6-C. Code		6-D. Legal Authority									
5-E. Code AWM		5-F. Legal Authority OPM FORM 1652			6-E. Code		6-F. Legal Authority									
7. FROM: Position Title and Number ADMINISTRATOR ES98021 98021					15. TO: Position Title and Number DEPUTY UNDER SECRETARY FNS 91087688 389860											
8. Pay Plan		9. Occ. Code	10. Grade or Level	11. Step or Rate	12. Total Salary		13. Pay Basis		16. Pay Plan ES		17. Occ. Code 0301	18. Grade or Level 00	19. Step or Rate 00	20. Total Salary/Award 183,100.00		21. Pay Basis PA
12A. Basic Pay		12B. Locality Adj. .00		12C. Adj. Basic Pay		12D. Other Pay .00		20A. Basic Pay 183,100.00		20B. Locality Adj. .00		20C. Adj. Basic Pay 183,100.00		20D. Other Pay .00		
14. Name and Location of Position's Organization FOOD AND NUTRITION SERVICE FOOD AND NUTRITION SERVICE					22. Name and Location of Position's Organization OFFICE OF THE SECRETARY IMMEDIATE OFFICE UNDER SEC FOOD,NUTRI, CONS SVC  AG 010103000000000000 PP 17 2019											
EMPLOYEE DATA																
23. Veterans Preference (b) (6) 1 - None 3 - 10-Point/Disability 5 - 10-Point/Other 2 - 5-Point 4 - 10-Point/Compensable 6 - 10-Point/Compensable/30%					24. Tenure (b) (6) 0 - None 2 - Conditional 1 - Permanent 3 - Indefinite			25. Agency Use		26. Veterans Preference for RIF (b) (6) NO						
27. FEGLI (b) (6)					28. Annuitant Indicator (b) (6)			29. Pay Rate Determinant 0 NOT APPLICABLE								
30. Retirement Plan (b) (6)				31. Service Comp. Date (Leave) (b) (6)		32. Work Schedule F FULL TIME			33. Part-Time Hours Per Biweekly Pay Period							
POSITION DATA																
34. Position Occupied 3 1 - Competitive Service 3 - SES General 2 - Excepted Service 4 - SES Career Reserved				35. FLSA Category E E - Exempt N - Nonexempt		36. Appropriation Code				37. Bargaining Unit Status 8888						
38. Duty Station Code 11-0010-001				39. Duty Station (City - County - State or Overseas Location) WASHINGTON DIST OF COLUMBIA DC												
40. Agency Data		41.		42.		43.		44.								
45. Remarks																
46. Employing Department or Agency DEPARTMENT OF AGRICULTURE					50. Signature/Authentication and Title of Approving Official ELECTRONICALLY SIGNED BY: MARY PLETCHER RICE DIRECTOR, HUMAN RESOURCES											
47. Agency Code AG 01		48. Personnel Office ID 5330		49. Approval Date 08/16/19												